

ENTERED

May 13, 2019

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

DAVID TYRONE THOMAS,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL NO. 2:18-CV-136
	§	
CITY OF KINGSVILLE, TEXAS, <i>et al</i> ,	§	
	§	
Defendants.	§	

ORDER

The Court is in receipt of the Magistrate Judge's Memorandum and Recommendation ("M&R") to dismiss certain claims and retain case, Dkt. No. 10, and Plaintiff's Objections to the M&R, Dkt. No. 25.

After independently reviewing the record and applicable law, the Court **ADOPTS** the M&R, Dkt. No. 10. Accordingly, the Court

- **ORDERS** that Kleberg County be substituted in place of the Kleberg County Sheriff's Office as a party defendant in this case;
- **RETAINS** the following claims against defendants as follows:¹
 - (1) Plaintiff David Tyron Thomas' ("Thomas") false arrest/false imprisonment claims arising from the June 9, 2016 drug charges against Kingsville Police Officer Kevin Martinez, aka John Doe 1, in his individual capacity;²
 - (2) Plaintiff's false arrest/imprisonment claims arising from the August 24, 2016 resisting arrest against Kingsville Police Officer Michael Chavana, aka John Doe 2, in his individual capacity;³

¹ Plaintiff's original complaint name a number of defendants, including unknown City of Kingsville police officers and unknown Kleberg County deputies. Dkt. No. 1.

² On November 29, 2018 the Magistrate Judge DIRECTED the Clerk to substitute Officer Kevin Martinez in place of Kingsville Police Arresting Officer John Doe 1 as a party defendant, Dkt. No. 31.

³ On November 29, 2018 the Magistrate Judge DIRECTED the Clerk to substitute Officer Michael Chavana in place of Kingsville Police Arresting Officer John Doe 2 as a party defendant, Dkt. No. 31.

- (3) Plaintiff's excessive force claims arising from events occurring on August 24, 2016 against Kleberg County Officers Sergeant Robert Wright, aka John Doe 3,⁴ and Deputy John Doe 4 in their individual capacities; and
- (4) Plaintiff's excessive force claims arising from events occurring on August 24, 2016 against Kingsville Police Officers John Does 5 and 6 in their individual capacities;
- **DISMISSES** Thomas' claims for money damages against all Defendants in their official capacities; and
 - **DISMISSES** Thomas' claims against the remaining Defendants as frivolous and/or for failure to state a claim pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1).

SIGNED this 13th day of May 2019.

A handwritten signature in black ink, appearing to read 'Hilda Tagle', written over a horizontal line.

Hilda Tagle
Senior United States District Judge

⁴ On November 29, 2018 the Magistrate Judge DIRECTED the Clerk to substitute Sergeant Robert Wright in place of Kleberg County Sergeant John Doe 3 as a party defendant, Dkt. No. 31.